

BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

MODIFIED LANGUAGE

CHANGES TO THE ORIGINALLY PROPOSED LANGUAGE ARE SHOWN AS FOLLOWS:

- Text in ***bold and italicizes*** – indicates language that was previously noticed to be deleted but is being inserted back in.
- Text with an ~~underline and strikeout~~ – indicates language that was previously noticed as new language, but is now being deleted.
- Text with a **double underline** – indicates addition of new language.

Title 16, California Code of Regulations, Division 29

The Board for Geologists and Geophysicists proposes to amend sections 3062, 3062.1, 3063 and 3063.1, California Code of Regulations as follows:

3062. Citations of Unregistered Persons. (a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code sections 148 and 149 against persons acting in the capacity of or engaging in the practice of a geologist, geophysicist, or certified specialist within this state without registration or certification in any discipline as a geologist, geophysicist, or certified specialist.

(b) If the executive officer has reasonable cause to believe that a person is acting in the capacity of, or engaging in the practice of, a geologist, geophysicist or certified specialist within this state without having a registration to so act or engage, the executive officer may issue a citation to that person.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain an order of abatement or may contain an assessment of an administrative fine in an amount not more than ***two thousand five hundred dollars (\$2,500)*** ~~five thousand dollars (\$5,000)~~.

(e) Service of a citation issued under this section shall be made by certified mail at the last known business address or residence address of the person cited and shall include information regarding appeal rights and copies of the applicable code sections violated.

Note: Authority cited: Sections 125.9, 148, 149 and 7818, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

3062.1. Assessment of Administrative Fines. (a) Before assessing an administrative fine pursuant to Section 3062, the executive officer shall give due consideration to the gravity of the violation, the good faith of the person cited, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than ***two thousand five hundred dollars (\$2,500)*** ~~five thousand dollars (\$5,000)~~ for each

inspection or each investigation made with respect to any violation of the following provisions:

Business and Professions Code Section and Description

7830 Title Professional Geologist, or Certified Engineering Geologist, or Hydrogeologist

7830.1 Title of Registered Geophysicist

7832 Offers to Practice or Practices Geology or Geophysics for Others

7834 Unregistered Practice by Partnership or Corporation

7835 Sign or Seal Reports (Geology)

7835.1 Sign or Seal Reports (Geophysics)

7872(a) Unregistered Practice

7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another

7872(d) Impersonates or Uses the Seal of Any Other Practitioner

7872(e) Uses Expired or Revoked Certificate of Registration

7872(g) Unregistered Manager, Proprietor, or Agent of Business from Which Geological or Geophysical Work is Solicited, Performed, or Practiced for Others

7872(h) Violation of Any Provision of the Geologist and Geophysicist Act

Note: Authority cited: Sections 125.9 and 7818, Business and Professions Code.
Reference: Section 125.9, Business and Professions Code.

3063. Citations of Registered Persons. (a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code section 125.9.

(b) If the executive officer has reasonable cause to believe that a geologist, geophysicist or certified specialist has committed any act or omission where the registrant is in violation of the Geologist and Geophysicist Act, the executive officer may, in lieu of filing an accusation, issue a citation to the registrant.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation, including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain: (1) an order of abatement, which may include the fixing of a reasonable time for abatement of the violation; or (2) an assessment of an administrative fine in an amount not more than **two thousand five hundred dollars (\$2,500)** ~~five thousand dollars (\$5,000)~~.

(e) Service of a citation issued under this section shall be made by certified mail to the registrant's address of record and shall include information regarding appeal rights and copies of the applicable code sections violated.

Note: Authority cited: Sections 125.9 and 7818, Business and Professions Code.
Reference: Section 125.9, Business and Professions Code.

3063.1. Assessment of Administrative Fines. (a) Before assessing an administrative fine under section 3063, the executive officer shall give due consideration to the gravity of the violation, the good faith of the cited person, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than **two thousand five hundred dollars (\$2,500)** ~~five thousand dollars (\$5,000)~~ for each inspection or each investigation made with respect to any violation of the following provisions:

Business and Professions Code Section and Description

7831 Use of Expired, Suspended, or Revoked Registration

7839 Practice or Attempts to Practice Civil Engineering

7839.1 Geologist or Geophysicist Practicing Outside Area of Registered Practice
7860(b) Committed Deceit, Misrepresentation, Violation of Contract, Fraud, Negligence, Incompetence in Practice
7860(d) Aiding and Abetting in the Violation of Any Provision of the Geologist and Geophysicist Act
7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another
7872(d) Impersonates or Uses the Seal of Any Other Practitioner
7872(e) Uses Expired or Revoked Certificate of Registration
7872(h) Violation of Any Provision of the Geologist and Geophysicist Act
(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations that demonstrate a willful disregard of the law;
4. The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.

Note: Authority cited: Sections 125.9 and 7818, Business and Professions Code.
Reference: Section 125.9, Business and Professions Code.